

386.365 Distribution of assets upon dissolution -- Process for selection of receiving trust -- Assets available for distribution defined.

- (1) Upon termination or dissolution of any trust or other entity (other than a corporation) which is or may become an exempt organization as described in Section 501(c)(3) of the Internal Revenue Code of 1954, as amended, or a charitable trust described in Section 4947(a)(1) of the Internal Revenue Code of 1954, as amended, any assets lawfully available for distribution shall be distributed to one (1) or more qualifying organizations described in Section 501(c)(3) of said Internal Revenue Code (or described in any corresponding provision of any successor statute) which organization or organizations have a charitable purpose which, at least generally, includes a purpose similar to the terminating or dissolving organization. The organization to receive the assets of the dissolving organization hereunder shall be selected in the discretion of a majority of the managing body of the dissolving organization, and if its members cannot so agree, then the recipient organization shall be selected pursuant to a verified petition in equity filed in a court of proper jurisdiction against the terminating or dissolving organization by one (1) or more of its managing body which verified petition shall contain such statements as reasonably indicate the applicability of this section. The court upon a finding that this section is applicable shall select the qualifying organization or organizations to receive the assets to be distributed, giving preference if practicable to organizations located within the Commonwealth of Kentucky. In the event that the court shall find that this section is applicable but that there is no qualifying organization known to it which has a charitable purpose, which, at least generally, includes a purpose similar to the terminating or dissolving organization, then the court shall direct the distribution of its assets lawfully available for distribution to the Treasurer of the Commonwealth of Kentucky to be added to the general fund.
- (2) For purposes of this section "assets lawfully available for distribution" shall include the assets of a terminating or dissolving organization remaining after:
 - (a) Payment, or provision for payment, of all liabilities and obligations of the organization; and
 - (b) Return, transfer or conveyance of any assets held by the organization (the terms of creating instrument of which require such return, transfer or conveyance upon termination or dissolution or otherwise) in accordance with the terms of the creating instrument; and
 - (c) In the event legal action is filed pursuant hereto, payment or provision for payment of all costs, including a reasonable attorney's fee for the parties, fixed by the court.
- (3) This section shall not be construed to deprive any person of any vested property interest which he may have on June 21, 1974.

History: Created 1974 Ky. Acts ch. 155, sec. 1.